

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EUGENE ROBINSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Crim. No. 2:03-cr-00385 (RMB)

MEMORANDUM OPINION

IT APPEARING THAT:

1. This matter comes before the Court, sitting by designation pursuant to 28 U.S.C. § 292(b), on Pro Se Petitioner Eugene Robinson’s motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 (“2255 Motion”), challenging his March 30, 2005 conviction and sentence under 18 U.S.C. § 115(a)(1)(B) and 18 U.S.C. § 876(c) for mailing threatening communications and threatening a federal judge. (Dkt. No. 56.) Petitioner is confined in the State Correctional Institution at Greene in Waynesburg, PA. The 2255 motion contains two grounds for relief: (1) ineffective assistance of counsel for failing to file a motion for a duress and necessity defense; and (2) “the Benadryl sent in the mail was no[t] life threatening, and should not be view[ed] as such.” Petitioner also states he should be transferred to federal custody to serve his federal sentence first.

2. According to the docket in this matter, Petitioner filed a § 2255 on July 30, 2007, and it was denied by Opinion and Order dated February 1, 2010. (Dkt. Nos. 46,

52, 53.) In his first § 2255 motion, Petitioner raised the same ineffective assistance of counsel claim that he asserts in his present § 2255 motion.

3. “Before a second or successive application ... is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C.A. § 2244(b)(3)(A). The appropriate Court of Appeals must certify the second or successive § 2255 motion to contain:

(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

28 U.S.C. § 2255(h).

4. Therefore, the Court will dismiss the petition for lack of jurisdiction. *See United States v. LaPrade*, 733 F. App'x 592, 594 (3d Cir. 2018) (“under § 2244(b), the District Court lacked—and will continue to lack—jurisdiction to consider [Petitioner’s argument] unless and until this Court grants his still-pending application for leave to file a successive § 2255 motion.”)

5. This Court finds that it is not in the interest of justice to transfer this matter to the Third Circuit Court of Appeals pursuant to 28 U.S.C. § 1631 because Petitioner does not appear to meet the criteria under § 2255(h)(1) or (2).

An accompanying order follows.

Date: February 4, 2025

Renée Marie Bumb
RENÉE MARIE BUMB
Chief United States District Judge
United States District Court
District of New Jersey